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9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 HAROLD BLACK,) No. C 08-1344 SI
13 Plaintiff,)
14 v.) ANSWER OF DEFENDANT JOHN E.
15 JOHN E. POTTER, Postmaster General,) POTTER, POSTMASTER GENERAL
16 Defendant.)
17 _____)

18 Defendant John E. Potter, Postmaster General, by and through his counsel, hereby admits,
19 denies, alleges and otherwise responds to Plaintiff Harold Black's Complaint in Action C 08-
20 1344 ("Complaint") as follows:

21 1. In answer to Paragraph 1 of the Complaint, defendant lacks information sufficient
22 to form a belief as to the truth thereof and, on that basis, denies each and every allegation therein.

23 2. In answer to Paragraph 2 of the Complaint, defendant admits the allegations
24 therein.

25 3. In answer to Paragraph 3 of the Complaint, defendant admits the allegations
26 therein.

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ANSWER OF DEFENDANT JOHN E. POTTER

1 4. In answer to Paragraph 4 of the Complaint, defendant admits that Plaintiff was
2 terminated from his employment at the Petaluma Post Office because he failed to pass a
3 qualifying test. Except as so expressly admitted, defendant denies each and every allegation in
4 Paragraph 4 of the Complaint.

5 5. In answer to Paragraph 5 of the Complaint, defendant denies each and every
6 allegation in Paragraph 5 of the Complaint.

7 6. In answer to Paragraph 6 of the Complaint, defendant admits that Plaintiff was
8 terminated from his employment at the Petaluma Post Office because he failed to pass a
9 qualifying test. Except as so expressly admitted, defendant denies each and every allegation in
10 Paragraph 6 of the Complaint.

11 7. In answer to Paragraph 7 of the Complaint, defendant admits the allegations
12 therein.

13 8. In answer to Paragraph 8 of the Complaint, defendant admits the allegations
14 therein.

15 9. In answer to Paragraph 9 of the Complaint, defendant admits that a true and
16 correct copy of the Equal Employment Opportunity Commission's "right to sue" letter is attached
17 to the Complaint. Except as so expressly admitted, defendant lacks information sufficient to
18 form a belief as to the truth thereof and, on that basis, denies each and every allegation in
19 Paragraph 9 of the Complaint.

20 10. Paragraph 10 of the Complaint contains no factual allegation for which any
21 response is necessary. To the extent that a response is deemed necessary, defendant denies each
22 and every allegation in Paragraph 10 of the Complaint.

23 11. Paragraph 11 of the Complaint contains no factual allegation for which any
24 response is necessary. To the extent that a response is deemed necessary, defendant denies each
25 and every allegation in Paragraph 11 of the Complaint.

26 Defendant denies that plaintiff is entitled to the relief requested or to any relief
27 whatsoever. Defendant further denies each and every allegation of the Complaint that has not
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1 been admitted, denied, or otherwise qualified above.

2 In further answer to the Complaint and as separate affirmative defenses, defendant alleges
3 as follows:

4 **FIRST AFFIRMATIVE DEFENSE**

5 Plaintiff's complaint fails to state a claim upon which relief can be granted.

6 **SECOND AFFIRMATIVE DEFENSE**

7 Plaintiff cannot establish a prima facie case of discrimination or reprisal.

8 **THIRD AFFIRMATIVE DEFENSE**

9 All actions being challenged by Plaintiff were taken for legitimate, non-discriminatory,
10 non-retaliatory and non-pretextual reasons.

11 WHEREFORE, for the reasons set forth above, defendant asserts that this action should
12 be dismissed and judgment entered in his favor, with appropriate costs awarded.

13 Respectfully submitted,

14
15 JOSEPH P. RUSSONIELLO
United States Attorney

16
17 Dated: April 29, 2008

18 /s/
MICHAEL T. PYLE
Assistant United States Attorney
19 Attorneys for Defendant John E. Potter